IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2128 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHAHBUDDIN KASAMBHAI VADIVALA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 2128 of 2002

MR MK VAKHARIA for Petitioner No. 1

MR. V.M.PANCHOLI, APP for Respondent No. 1

MR DR BHATT for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 16/07/2004

ORAL JUDGEMENT

By filing instant petition under Section 482 of

the Code of Criminal Procedure ('the Code' for short), petitioner against whom Criminal Case No. 9 of 2001 is filed for commission of the alleged offences punishable under Sections 406, 420, 467, 511, 506(2) of the IPC by the respondent No.2 - Original Complainant which has been sent for investigation under Section 156(3) of the Code has prayed to quash and set aside the said Criminal Case and the consequential order of sending the same for investigation under Section 156(3) of the Code.

2. At the time of hearing of this petition it has been brought to the notice of this Court by the learned advocates appearing for the parties that the Criminal Case No. 9 of 2001 which was sent for investigation under Section 156(3) of the Code has been investigated and during the course of investigation evidence is divulged against the present petitioner, therefore, charge sheet in that connection has already been filed before the concerned Court and the trial is awaited.

3. In aforesaid view of the matter this Court is of the opinion that while framing the charge petitioner has to be heard by the learned Magistrate and therefore, this Court is not inclined to entertain this petition at this stage and therefore it is deserve to be rejected.

4. For the foregoing reasons, petition fails and accordingly it is rejected. Rule is discharged.

(A.M.Kapadia,J)

Jayantik*